

## REMARKS

Claims 19-22 have been rejected again under 35 U.S.C. § 102(b) as being anticipated by German Patent '151.

This rejection is respectfully traversed. **Please note that since the German '515 patent tilt axis AK is not fixed with respect to the pivot axis (as alleged in the above identified rejection), the following recitation from claim 19 does not read on the German '151 patent:**

“...said boom further includes a tilt axis allowing the head shaft to pivot along the tilt axis which is **fixed substantially perpendicular** with respect to said pivot axis.”  
(Emphasis Added.)

Attached hereto is a color coded Fig. 1 of German '151. Note that the members colored pink which are operatively pivotally attached to articulated members 14a, 14b and 14c are hydraulic cylinders which are there for the purpose of pivoting members 14a, 14b, 14c and 16 to any number of different positions. **As these (pink) hydraulic cylinders are used to pivot members 14a, 14b, 14c, and 16, the orientation of tilt axis AK (yellow) will change accordingly with respect to the pivot axis (colored blue) and** extending into the page of Fig. 1 of '151.

The head shaft and head shaft axis are colored orange and the excavation boom are colored green on the attached Fig. of the German '151 patent based on the undersigned's understanding of how the reference is being construed in the Office Action of January 7, 2005.

(Claim 20 has been cancelled without prejudice.)

Similarly, the recitation in the last line of Amended Claim 21, “wherein the tilt axis is fixed substantially perpendicular to said pivot axis”, does not read on the German ‘151 patent for the same reasons given above.

Also, the recitation in the last line of Amended Claim 22, “wherein the tilt axis is fixed substantially parallel to a line substantially perpendicular to said pivot axis”, does not read on the German ‘151 patent for the same reasons given above.

Claim 19 recites “...a head shaft operatively attached to a second end of said boom” (Emphasis add.). It is not understood how such language can be read on the German ‘151 patent if members 14a, 14b, 14c AND 18 are all read as part of the “excavation boom”.

Everything in color on attached color coded Fig. 1 of German Patent ‘151 has been added for illustrative purposes. The words in red and in quotations are from the last Office Action.

Accordingly, since all remaining claims 19, 21 and 22 which are being examined are clearly allowable, a notice to that effect is earnestly solicited.

Respectfully submitted,

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